

STATE OF NORTH CAROLINA

CATAWBA COUNTY

COUNTY OF CATAWBA

BOARD OF ELECTIONS

In Re: Hearing for Challenge of)
Candidacy of Gilda Caputo-Hansen)
Candidate for Catawba Town Council)

ORDER

The five members of the Catawba County Board of Elections, including Chair Barry Cheney, Secretary David Abernethy, Jason White, Geniey Yang and David Hood held a hearing on August 1, 2019 to consider the challenge to the candidacy of Gilda Caputo-Hansen filed by fellow candidate Donald J. Allen and Amanda Drum Stewart. Ms. Caputo-Hansen, Mr. Allen and Ms. Stewart represented themselves. Having heard all of the evidence and arguments presented at the hearing, the Board makes the following FINDINGS OF FACT:

1. The candidate and challenger were given the opportunity to present evidence in the form of documents and testimony, as well as to cross examine witnesses or provide any rebuttal testimony.
2. The candidate has not spent the night as a resident of any location within the Town Limits of Catawba.
3. The candidate says that she currently lives at an address in Conover, outside the Town limits of Catawba, but contends that her official residence for purposes of her candidacy is 100 S. Main St., Apt. A.
4. On the same day she filed for election to the Town Council, July 19, 2019, the candidate entered into a residential lease for the property located at 100 S. Main St., Apt. A. The candidate currently operates a business at the same address, 100 S. Main St., which is directly below the apartment.
5. The candidate intends to move into the apartment at 100 S. Main Street as soon as it is ready for lease, but has been unable to do so because the apartment is still being prepared for her tenancy.
6. The candidate currently spends the vast majority of her time at her business location, at the same address, although she has not yet stayed the night in the apartment.
7. The challengers Amanda Drum Stewart and Donald J. Allen both contend that the candidate operates a business at 100 S. Main St. but has not yet established residency at the apartment above her store, even given that the candidate has signed the lease with the landlord.

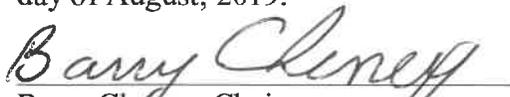
8. The Town of Catawba lies wholly within the boundaries of Catawba County, North Carolina.

Based on these FINDINGS, the Board makes the following CONCLUSIONS OF LAW:

1. The matter is properly before the Board, and the Board has jurisdiction to hear the matter.
2. Legally, a person's residence is defined by statute as that place where the person's habitation is fixed and to which, whenever that person is absent, that person has the intent of returning N.C.G.S. §163A-842(1).
3. The candidate has plans to fix her habitation at 100 S. Main St. Apt A, but has not yet entered those premises as a residential tenant. Operating a business at that location does not constitute residential habitation.
4. It is undisputed that the current place where the candidate spends the night and keeps her personal non-business property is outside the Town limits.

Therefore, by a Motion made by David Hood, the Board voted by a vote of 4 to 1 that candidate Caputo-Hansen has failed to show by a preponderance of the evidence that, based upon the residency requirements, she was qualified to file as a candidate for election to the office sought. Voting against the motion and in favor of the candidate was Secretary David Abernethy.

This Order was announced at the conclusion of the hearing, and is signed and filed this the 19th day of August, 2019.


Barry Cheney, Chair
Catawba County Board of Elections